

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BENJAMIN LAGERSTROM,
Plaintiff,

-v-

ORSID REALTY, *et al.*,
Defendant.

23-CV-727 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

On August 1, 2024, the Court designated three arbitrators in this matter pursuant to 9 U.S.C. § 5 and gave each side the opportunity to strike one of them, with the remaining individual to serve as the arbitrator. (ECF No. 66.) Plaintiff deemed two of the listed arbitrators (Mr. Weisenfeld and Ms. Mackenzie) to have conflicts but ultimately agreed to proceed with the third arbitrator (Ms. Drucker) (ECF No. 69 at 2; ECF No. 72 at 1). Plaintiff, however, then emailed Ms. Drucker on August 18, calling her the “‘lucky winner’ in the SDNY’s ordered selection process” and “caution[ing]” Ms. Drucker that defense counsel’s “statements concerning what he intends to ask of you is not in accordance with the Federal Arbitration Act.” (ECF No. 71-2 at 3.) Plaintiff also questioned Ms. Drucker’s impartiality in his email, “suggest[ing] for your own sake that you require the covered claimant pay you in advance to avoid any possible appearance of financial persuasion in this important Civil Rights matter.” (*Id.* at 4.) Plaintiff stated that his “acrimony” at Defendants “should not be construed as directed toward you as arbitrator . . . providing there is nothing connecting your firm to the types of egregious conflicts shown here” (*Id.*) Ms. Drucker subsequently declined to serve as an arbitrator in this matter. (*Id.* at 2.)

In light of the parties' failure to select an arbitrator thus far, the Court hereby appoints **Elliott D. Shriftman, Esq.** as arbitrator, and directs the parties to proceed with arbitration commencing on or before **September 23, 2024**.

If either party believes that Mr. Shriftman's serving as arbitrator presents a conflict of interest, that party shall file a letter motion no longer than 2 pages on or before **September 6, 2024**, articulating a good faith basis for the alleged conflict. Such a motion shall attach as exhibits any evidence that the party wishes the Court to consider in ruling on the objection. Any response to such a motion shall be filed on or before **September 13, 2024**.

The Court warns Mr. Lagerstrom that arbitration is not optional in this matter. If the Court determines that he has failed to proceed with arbitration in good faith, and/or that he has unreasonably frustrated the arbitration process, he will forfeit any right to proceed with his claims in this Court and those claims will be dismissed.

SO ORDERED.

Dated: August 23, 2024
New York, New York



J. PAUL OETKEN
United States District Judge